

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MAMADOU DIALLO, A#072-165-710

Petitioner,

v.

ORDER  
00-CV-1104A

ICE, (IMMIGRATION AND CUSTOMS  
ENFORCEMENT),

Respondent.

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The above-referenced case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1)(B). On May 5, 2010, Magistrate Judge Schroeder filed a Report and Recommendation, recommending that the petition for a writ of habeas corpus be denied.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed<sup>1</sup>, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Schroeder's Report and Recommendation, petitioner's petition for a writ of habeas corpus is denied.

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<sup>1</sup> In a letter dated April 20, 2010, petitioner expressed concerns that the Court construed as a motion for additional time to file objections to the Report and Recommendation. The Court granted that motion and gave petitioner an additional 30 days to file objections. Petitioner never filed any objections.

In addition, because the issues that petitioner raised here are not the kinds of issues that a court could resolve in a different manner, and because these issues are not debatable among jurists of reason, the Court concludes that petitioner has failed to make a substantial showing of the denial of a constitutional right, 28 U.S.C. § 2253(c)(2), and accordingly denies a certificate of appealability.

The Court also hereby certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith and thus denies leave to appeal as a poor person. *Coppedge v. U.S.*, 369 U.S. 438 (1962).

Petitioner must file any notice of appeal with the Clerk of the Court within thirty (30) days of the entry of judgment in this action. Requests to proceed on appeal as a poor person must be filed with the United States Court of Appeals for the Second Circuit in accordance with the requirements of Rule 24 of the Federal Rules of Appellate Procedure.

The Clerk of Court shall take all steps necessary to close the case.

SO ORDERED.

*s/ Richard J. Arcara*

HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: September 20, 2010